

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

MATTHEW S. JOHNSTON #303876,

Plaintiff,

v.

3:04-cv-151

ROANE COUNTY SHERIFF'S DEPARTMENT,
et al.,

Defendants.

O R D E R

This *pro se* prisoner's civil rights complaint under 42 U.S.C. § 1983 was dismissed and plaintiff filed a notice of appeal. Because the plaintiff did not pay the \$255.00 filing fee for an appeal nor did he submit the required documents for pauper status on appeal, plaintiff was given thirty (30) days to pay the full filing fee or to submit the necessary documents. Plaintiff has now submitted an application to proceed *in forma pauperis*, a certified copy of his inmate trust account for the previous six-month period, and a statement of the issues to be presented on appeal.

It appears from the application that the plaintiff lacks sufficient financial resources to pay the \$255.00 filing fee. Accordingly, pursuant to 28 U.S.C. § 1915(b), plaintiff will be allowed to proceed on appeal without the prepayment of costs or fees or security therefor.

The Clerk is **DIRECTED** to forward the record to the Clerk of the Court of Appeals for the Sixth Circuit.

Plaintiff is herewith **ASSESSED** the \$255.00 fee for filing an appeal. Pursuant to 28 U.S.C. § 1915(b)(1)(A) and (B), the custodian of the plaintiff's inmate trust account at the institution where he now resides is directed to submit to the Clerk, U.S. District Court, 800 Market Street, Suite 130, Knoxville, Tennessee 37902, as an initial partial payment, whichever is greater of:

- (a) twenty percent (20%) of the average monthly deposits to the plaintiff's inmate trust account; *or*
- (b) twenty percent (20%) of the average monthly balance in the plaintiff's inmate trust account for the six-month period preceding the filing of the appeal on February 28, 2005.

Thereafter, the custodian shall submit twenty percent (20%) of the plaintiff's preceding monthly income (or income credited to the plaintiff's trust account for the preceding month), but only when such monthly income exceeds ten dollars (\$10.00), until the full filing fee of Two Hundred Fifty-five Dollars (\$255.00) has been paid to the Clerk. 28 U.S.C. § 1915(b)(2).

The Clerk is **DIRECTED** to send a copy of this Order to the Warden of the Whiteville Correctional Facility, the Commissioner of the Tennessee Department of Correction, and the Attorney General for the State of Tennessee to ensure that the custodian of the plaintiff's inmate trust account complies with that portion of the Prison Litigation

Reform Act relating to payment of the appeal fee. The Clerk is further **DIRECTED** to forward a copy of this Order to the court's financial deputy.

E N T E R:

s/ James H. Jarvis
United States District Judge